

1 E-filed on 1/3/07

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11
12 IN RE CYGNUS TELECOMMUNICATIONS
13 TECHNOLOGY, LLC, PATENT
14 LITIGATION

15 THIS ORDER RELATES TO:
16 All Actions

No. MDL-1423
This Order Applies to All Actions

C-02-00142 RMW
C-02-00145 RMW
C-02-05437 RMW
C-03-03378 RMW
C-03-03594 RMW
C-03-03596 RMW
C-03-04003 RMW
C-04-03001 RMW
C-04-03365 RMW
C-04-04247 RMW
C-04-04359 RMW
C-06-03843 RMW
C-06-04295 RMW
C-06-06479 RMW

21 ORDER DEEMING MOTIONS SUBMITTED
22 ON THE PAPERS & TEMPORARILY
BARRING FURTHER FILING OF MOTIONS

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24 The court held a hearing on claim construction and several related motions for summary
25 judgment on November 21, 2006 and has not yet issued a ruling. On December 1, 2006, plaintiff
26 Cygnus Telecommunications Technology, LLC filed what it styled a revised motion for summary
27 judgment against defendant United World Telecom, L.C. ("UWT"). UWT and defendant AT&T
28 Corp. filed separate responses, asking the court to strike Cygnus's latest filing. AT&T asked, in the

ORDER DEEMING MOTIONS SUBMITTED ON THE PAPERS & TEMPORARILY BARRING FURTHER FILING OF
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1 alternative, for leave to file a response, arguing that Cygnus's motion, although ostensibly directed
 2 against only UWT, in reality covered issues common to all defendants.

3 Cygnus's revised motion and the defendants' counter-motions are all deemed submitted on
 4 the papers. No hearing will be held. No further filings will be accepted in connection with these
 5 motions.

6 In fact, until the court resolves all pending issues related to claim construction, validity of the
 7 patents-in-suit, and infringement liability of individual defendants, no party should file any further
 8 substantive motions. Permissible filings would be things like a notice of PTO action,¹ notice of a
 9 relevant recent decision, scheduling matters involving recently-served defendants,² or stipulations
 10 regarding settlement.

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13 DATED: 1/3/07

Ronald M Whyte
 14 RONALD M. WHYTE
 United States District Judge

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¹ The court is aware that on December 19, 2006, the PTO issued a final rejection of claims 6 through 11 in the reexamination of U.S. Patent No. 6,035,027.

² On September 20, 2006, the court instructed Cygnus to show cause by December 20, 2006 why any defendant in case no. C-06-04295 remained unserved, but the docket for that case shows no case-specific activity. Similarly, the court expected a joint scheduling proposal from the parties in case no. C-06-06479 some time ago but has not yet received one.

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